IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

–

–

TUESDAY, THE FIRST DAY OF FEBRUARY

TWO THOUSAND AND SIX

P R E S E N T

THE HON'BLE SRI JUSTICE V.ESWARAIAH

* * *

–

WP.No.20134 OF 2004

Between**:**

Mohd. Ataullah Khan … Petitioner

Versus

Central Power Distribution Co. of AP Ltd.,

Represented by its Chairman & Managing Director,

Singareni Bhavan, Red Hills,

Hyderabad & Ors. … Respondents

Counsel for the Petitioner: Mr.S.Sharath Kumar

Counsel for the Respondents: Mr.V.Ajay Kumar

SC for AP Transco

Mr.K.Ravinder Krishna

O R D E R :

Heard the learned counsel for the petitioner as well as the learned standing counsel for the respondents.

It is stated that the petitioner is running an optical showroom under the name and style, M/s. Paris Opticals at Chikkadpally, Hyderabad, in respect of shop bearing No.1-1-258/21. There is service connection bearing SC.No.F4-002170 for LT-Category-II was released in favour of Kings Foot Wear, bearing no.1-1-258/1/21, Chikkadpally, for which the petitioner is the proprietor. The petitioner changed Kings Foot Wear into Paris Opticals and using the said service connection. The said service connection was inspected on 06-4-1998 and found certain irregularities committed by the petitioner and indulging in pilferage of energy by meddling with the

mechanism and also by-passing the meter and thereby reducing the actual consumption to be recorded by the meter. Accordingly, provisional assessment letter No.ADE/Op/S.D.5/C-I/D.No.248 dated 18-4-1998 was issued by the third respondent, provisionally assessing the pilferage of energy amounting to Rs.44,415-00 and power supply was disconnected. Aggrieved by the same, the petitioner filed WP.No.16618 of 1998 wherein this court directed to restore the power supply on payment of one-fourth of the demand. Accordingly, the petitioner paid an amount ofRs.11,103-75 paise and Rs.200-00 for reconnection of power supply and that the power supply was restored pending finalization of the proceedings.

Subsequently the said writ petition was dismissed for default on 16-9-2002 and therefore a show cause notice for final assessment dated 13-11-1998 was issued to the petitioner to file objections within thirty days, which was acknowledged by the petitioner on 16-3-1999 but no objections have been filed from the date of receipt of the show cause notice. Therefore, further a notice of personal hearing dated 07-7-2004 was issued to the petitioner to attend personal hearing on 15-7-2004 and though the petitioner acknowledged the said notice but failed to attend personal hearing on 15-7-2004 and therefore, final assessment order dated 21-6-2004 was issued assessing the value of energy pilfered by the petitioner at Rs.28,485-00. Without questioning the order No. DEA/I/Hyd/ DAT/290.35/D.No.6165, dated 21-6-2004 passed by the second respondent, the petitioner filed this writ petition, questioning the bill dated 04-10-2004 which was consequential bill pursuant to the final assessment order dated 21-6-2004.

Admittedly an appeal is provided against the said final assessment order

before the Superintending Engineer, APSEB but no appeal has been filed by the petitioner.

This court while admitting the writ petition, passed an order dated 02-11-2004 granting interim direction to the respondents to restore the power supply subject to the condition that the petitioner deposits a sum of Rs.5,000-00 (Rs.five thousand only).

It is stated that an amount of Rs.5,000-00 (Rs.five thousand only) has been deposited and still there is a balance of Rs.12,834-00 plus surcharge and other incidental charges are due and payable by the petitioner. I am of opinion that the petitioner is not entitled for any relief questioning the consequential bill dated 04-10-2004 without filing appeal against the final assessment order dated 21-6-2004. However, the learned counsel for the petitioner submits that the petitioner is inclined to pay the balance amount.

Having regard to the fact that final assessment order and the impugned bill, I consider it appropriate to permit the petitioner to pay the balance amount in two monthly equal instalments. The first instalment shall be paid on or before 01-3-2006 and the second instalment on or before 01-4-2006. However, it is needless to mention that in case if there is any default in payment of any instalment as aforesaid and that apart payment of regular consumption charges, it is open for the respondent to take appropriate action to disconnect the service connection.

With the above direction, the writ petition is disposed of. No costs.

FEBRUARY 01st, 2005. ----------

I s L. V. ESWARAIAH, J.